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December 27, 2022

Via ECF and Fed Ex

Honorable Paul A. Crotty
United States District Court
Southern District of New York
500 Pearl Street, Chambers 1350
New York, NY 10007

Re: Response to Pre-Motion Conference Letter, ECF No. 84
Caballero v. Fuerzas Armadas Revolucionarias de Colombia
No. 1:20-mc-00249-PAC

Dear Judge Crotty:

We represent Plaintiff Antonio Caballero, a victim of terrorism, who has a Final Judgment issued on May 20, 2020 by Judge Moore of the Southern District of Florida under the Anti-Terrorism Act (“ATA”), 18 U.S.C. § 2333(e). Caballero has registered his Final Judgment with this Court (ECF Nos. 1 and 1-1). Caballero is pursuing collection efforts pursuant to Section 201(a) of the Terrorism Risk Insurance Act of 2002 (“TRIA”), 116 Stat. 2322 (codified at 28 U.S.C. § 1610 note).

We respond herein to the “Interested Parties” Pre-Motion Conference Letter, ECF No. 84 (the “Letter”). In their Letter, the Interested Parties notify the Court that they anticipate seeking three forms of relief: (i) intervention; (ii) unsealing of court filings; and (iii) a stay of execution proceedings. For the reasons set forth below, Caballero does not oppose the Interested Parties’ intervention or the unsealing of court filings applicable to the Interested Parties. At this time, the United States District Court for the Southern District of Florida in *Caballero v. FARC, et al.*, Case No. 18-cv-25337-KMM (the “SDFL Action”) has not entered a TRO regarding, or stayed, any

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United States Marshal sales of assets subject to writs issued by that Court. Thus, Caballero will oppose any stay of execution proceedings before this Court.

By way of brief procedural background, on April 11, 2022, Caballero filed, under seal, an *ex parte* Motion relating to the Interested Parties (ECF No. 59). On May 4, 2022, this Court entered a sealed Order regarding the *ex parte* Motion. On June 13, 2022, Caballero filed, under seal, an *ex parte* Motion for issuance of writs of execution (ECF No. 61), which was the subject of a sealed Order dated June 16, 2022. As Caballero noted in ECF No. 85, although the U.S. Marshal had levied upon the Interested Parties' three properties as of September 9, 2022, the U.S. Marshal's Process Receipts and Returns (i.e., Form USM 285) had an error in that the U.S. Marshal filed the same form USM 285 twice for one property (ECF Nos. 72, 73) and did not file a form USM 285 with regard to one of the three properties. Caballero sought to have the U.S. Marshal correct this error before proceeding any further.

On December 20, 2022, the U.S. Marshal filed the form USM 285 with regard to the third property (ECF No. 82), and the next day (December 21, 2022), Caballero recorded notices of levy with the NYC Department of Finance Office of the City Register and filed such notices with this Court (ECF No. 83). In light of the completion of the above processes, on December 23, 2022, Caballero notified the Court of such completion and requested that the docket entries related to the Interested Parties be unsealed (ECF No. 85).

Based on the above brief procedural background, Caballero does not object to the intervention of the Interested Parties, who are registered on the titles of the three properties levied upon. Also, now that the above processes have been completed, as stated in ECF No. 85, Caballero does not oppose (as he has sought the same relief) the Interested Parties request that docket entries related to the Interested Parties be unsealed.

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Based on the current procedural posture of the case in the Southern District of Florida, Caballero will object to a stay of the execution proceedings before this Court. The Interested Parties do **not** accurately decide the status of such proceedings. In that case, the U.S. Marshal has already sold, at auction, two properties and is scheduled to sell several more on January 17, 2023. Magistrate Judge Becerra's Report and Recommendation ("R&R") (SDFL Action, ECF No. 202) did recommend that the Court enter a limited TRO preventing Caballero from further transacting the two properties already sold by the U.S. Marshal at auction (to entities in which Caballero holds the majority interest) so that Judge Moore could consider the Interested Parties' pending Motion to Vacate. (R&R at 46). But, the R&R **denied**, without prejudice, the Interested Parties' request for a TRO with regard to properties that had not yet been sold (which is the procedural posture before this Court). (R&R at 46-47). Because, at this time, the Southern District of Florida has not entered a TRO staying the U.S. Marshal execution proceedings, Caballero will oppose a TRO or stay of execution proceedings before this Court.

Caballero does note that on December 23, 2022, the Interested Parties filed a new motion seeking to cancel the January 17, 2023 U.S. Marshal sales (SDFL Action, ECF No. 207). Caballero will oppose such relief. Caballero will notify this Court if Judge Moore stays or cancels the January 17, 2023 U.S. Marshal sales.

Respectfully Submitted,

/s/ Leon N. Patricios
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cc: Counsel for all Parties via ECF